

Appl. No. 09/989,620
Amdt. dated June 11, 2003
Reply to Office Action of March 26, 2003

R E M A R K S

The Examiner is respectfully requested to acknowledge receipt of the certified copy of the priority document that was filed on November 20, 2001.

Claims 1 and 14 were amended to include features of claims 2, 5 to 12, 16 and 19 to 26.

Claims 14 and 28 were amended to include the feature of claims 15 and 29, respectively, and to include the diseases described on page 31 of the specification.

Enclosed is a MARKED-UP VERSION OF THE AMENDMENTS TO THE CLAIMS.

New claims 44 to 48 recite a feature of claims 30 to 43.

Claims 1-8, 14-22, 27, 30-37 and 42 were rejected under 35 USC 112, first paragraph, for the reasons indicated in Paragraph No. 8 beginning on page 4 and ending on page 6 of the Office Action.

The claims have been amended to avoid this rejection under 35 USC 112, first paragraph.

Claims 1-8, 14-22, 27, 30-37 and 42 were rejected under 35 USC 112, first paragraph, for the reasons set forth in Paragraph No. 9 on pages 6 and 7 of the Office Action.

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The claims have been amended to avoid this rejection under 35 USC 112, first paragraph.

Claims 1-43 were rejected under 35 USC 112, first paragraph, for the reasons noted in Paragraph No. 10 beginning on page 8 of the Office Action.

The claims have been amended to avoid this rejection under 35 USC 112, first paragraph.

Claims 14-29 were rejected under 35 USC 112, first paragraph, for the reasons indicated in Paragraph No. 11 on pages 9 and 10 of the Office Action.

The method claims were amended hereinabove to delete "prevention" and to recite only "treatment".

The method claims were also amended to recite that the patient is a human and that the disease to be treated is a disease selected from the group consisting of rheumatoid arthritis, chronic thyroiditis, allergic encephalitis, myasthenia gravis, hyperthyroidism, extreme insulin resistance in diabetes, rheumatic fever, human hemolytic anemias, granulocytopenias, thrombocytopenias and systemic lupus erythematosus.

Claims 1-3, 6-7, 9-11, 13-17, 19-21, 23-25, 27-32, 34-36, 38-40, 42 and 43 were rejected under 35 USC 112, first paragraph, for the reasons set forth in Paragraph No. 12 on page 10 of the Office Action.

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Page 28, lines 8 to 9 of the specification states that CH11 is an anti-human Fas monoclonal antibody which is produced by Igaku seibutsugaku kenkyusho K.K. described in EP 0 909 816.

Enclosed is a copy of a catalogue of MBL International Corporation for CH-11.

It is therefore clear that CH11 was readily available to the public at the time of the present invention.

Claims 14-43 were rejected under 35 USC 112, first paragraph, for the reasons indicated in Paragraph No. 13 on pages 11 to 15 of the Office Action.

As discussed above, the method claims were amended to delete "prevention" and to recite only "treatment". The method claims were also amended to recite that the patient is a human. Also as discussed above, the method claims were amended to recite specific diseases.

Claims 2-4, 6-8, 10-13, 16-18, 20-22, 24-26, 28, 29, 31-33, 35-37, 39-41 and 43 were rejected for alleged lack of enablement for the reasons set forth in Paragraph No. 14 on pages 15 and 16 of the Office Action.

In the paragraph bridging pages 18 and 19 of the specification, it is stated that HFE7A was deposited in accordance with the Budapest Treaty and was accorded the accession number FERM BP-5828.

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Page 28, lines 8 to 9 of the specification discuss that the anti-Fas monoclonal antibodies HFE7A are described in EP 0 909 816. A copy of EP 0 909 816 is enclosed (EP 0 909 816 was cited in applicants' INFORMATION DISCLOSURE STATEMENT dated January 29, 2002). HFE7A is discussed on page 12, lines 13 to 20 of EP 0 909 816.

Enclosed is a copy of each of the deposit certification and viability statement for HFE7A (FERM BP-5828).

It is therefore respectfully submitted that the specification and present claims comply with all the requirements of 35 USC 112.

Claims 1, 5 and 9 were rejected under 35 USC 102 as being anticipated by Mizutani et al., American Cancer Society, 79(6), 1180-1189 (1997), for the reasons set forth in Paragraph No. 16 on page 17 of the Office Action.

Claims 1, 5 and 9 were rejected under 35 USC 102 as being anticipated by Mizutani et al., J. Urology, 160, 561-570, for the reasons set forth in Paragraph No. 17 on page 17 of the Office Action.

Claims 1, 5 and 9 were rejected under 35 USC 102 as being anticipated by McGahon et al., British Journal of Haematology, 101, 539-547 (1998), for the reasons set forth in Paragraph No. 18 bridging pages 17 and 18 of the Office Action.

There were no prior art rejections for claims 2 to 4, 6 to 8 and 10 to 43.

The above anticipation rejections are moot in view of the present claims.

It is therefore respectfully submitted that applicants' presently claimed invention is patentable over the cited references.

Regarding Paragraph No. 2 on page 2 of the Office Action, the following documents are enclosed:

(1) English-language translation of Nakayama et al., Mebio, 12(10) 79-86 (1995) with a copy of the Japanese-language publication;

(2) English-language translation of Aono et al., 38th Japan Rheumatic Society Summary Collection, p. 487 (1994) with a copy of the Japanese-language publication;

(3) English-language translation of Serizawa, Saishin-Igaku, 54(4), 917-924 (1999) with a copy of the Japanese-language publication;

(4) English-language translation of Fujisawa, Molecular Medicine, 33, 1254-1261, (1996), with a copy fo the Japanese-language publication.

Concerning Paragraph No. 3 at the bottom of page 3 of the Office Action, it is noted that WO 91/10448, a copy of which is

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of record, is a related family member of JP 5-503281. JP 5-503281 is also discussed in the paragraph bridging pages 1 and 2 of the specification and therefore JP 5-503281 should be considered and made of record.

Reconsideration is requested. Allowance is solicited.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

Respectfully submitted,



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- Encs.: (1) MARKED-UP VERSION OF THE AMENDMENTS TO THE CLAIMS
(2) A copy of EP 0909816
(3) MBL International Corporation catalogue for CH11
(4) A copy of the Deposit certification for HFE7A
(5) A copy of the Viability Statement for HFE7A
(6) English-language translation of Mebio, 12(10), 79-86 with a copy of the publication
(7) English-language translation of 38th Japan Rheumatic Society Summary Collection, p. 487 (1994) with a copy of the publication
(8) English-language translation of Saishin-Igaku, 54(4), 917-924 with a copy of the publication
(9) English-language translation of Molecular Medicine, 33, 1254-1261 with a copy of the publication